

House Insurance Committee

via email to Committee Clerk Sergio Cavazos at Sergio.Cavazos_HC@house.texas.gov

COVID-19 Price Gouging Related Questions:

1. How prevalent is price gouging related to COVID-19 testing? What are state agencies doing in order to monitor price gouging associated with COVID-19 testing?

Unfortunately, during the COVID-19 pandemic we have seen a new twist on health care price gouging practices by certain health care providers that have taken advantage of patients for years now in order to extract outrageous reimbursements. We have spoken with patients and seen media reports of the following types of price gouging:

1. Billing for facilities fees for drive-thru testing at certain freestanding emergency rooms (FSERs) where a patients never entered the facility.
2. Billing for physician fees for drive-thru testing when a patient may have spent mere seconds with a physician.
3. Running additional tests on patients beyond the requested COVID-19 test.
4. Charging different prices for insured and uninsured patients and refusing to accept the lower cash price for insured patients. See ProPublica [“How a \\$175 COVID-19 Test Led to \\$2,479 in Charges”](#)

Included with our comments are a copy of freestanding ER charges for COVID-19 testing from Melissa Taylor. Melissa was experiencing symptoms of COVID-19 and thought it best to get tested quickly. She went to the location nearest her home, a freestanding ER, for a quick drive thru test. Her insurance was billed \$3,340.16.

Another Austin resident, Pam LeBlanc, described her experience with COVID-19 testing price gouging in a statement to AARP Texas:

“Sept. 3, 2020 - Statement by Pam LeBlanc

I’m a freelance writer based in Austin, and before chasing a group of kayakers up the Texas coast in late May for a story, we all agreed ahead of time to get COVID tests. The expedition leader suggested the Austin Emergency Center in Mueller.

A few days prior to the trip, I went to the center, where I followed the signs for the drive-through test. Someone came to my vehicle window, handed me some paperwork to fill out, and photographed my insurance card. (I assumed since I have health insurance, this would be the time to use it.) I had no symptoms of COVID, the test was merely for peace of mind among our group; we felt it was the right thing to do to protect ourselves and the community.

A doctor came to my car window for about 20 seconds and asked why I wanted the test. I explained the situation. A few minutes later a nurse came and did the nasal swab. I was told I’d get my results in a few days, which I did. (Negative.)

About two or three weeks later, I received a “claim” from my insurance company which outlined the charges. The claim totaled \$6,400 - when all I had requested was a COVID test.

This surprised me, because another member of the kayaking expedition went to the same place to get the same test, and although he had health insurance, he paid cash to minimize the hassle. His cost was about \$200.

When I looked more closely at the claim, I noticed that it included charges for blood tests (no blood was drawn) and tests for herpes and other diseases which I didn’t request.

I called the insurance company, which told me it was only the claim and not a final bill. I called the company’s billing office, which said I should wait for a final bill. I explained that something seemed wrong, since the company was being charged by the lab for tests that weren’t done. A few days later the medical center called me to explain that they didn’t know the lab was charging so much for the tests and that I wouldn’t be charged the entire claim. But the claim still included thousands of dollars in charges for using the medical center’s emergency facility - even though I never even stepped out of my car.

I never received a final bill, but was assured my cost would be much lower than the claim.”

2. What steps are being taken in order to prevent surprise medical billing associated with COVID-19 treatment? What steps can consumers take in order to avoid these surprise medical bills?

Consumers are particularly vulnerable to this type of price gouging. Freestanding ERs have been caught actively misleading consumers about price and insurance coverage for many years now. AARP Texas conducted [a survey](#) of independently operated freestanding ERs in 2018 and found that at the time:

- 77% of facilities said they “take” or “accept” insurance on their website, but were actually out-of-network for any major health plan.
- 28% of facilities said they “take” or “accept” insurance on their website, but were actually out-of-network for any major health plan.
- 43% of the facilities called were able to answer a simple ‘yes’ or ‘no’ to our questions about health plan coverage.
- 60% of freestanding ERs used disclosure language that suggests the facility is in-network when it is, in fact, an out-of-network facility for all health plans.

Many freestanding ER industry players have clearly chosen misinformation and price gouging as a business model. The legislature passed HB 2041 last session aimed at outlawing many of the known misleading and manipulative practices. Additionally, the legislature passed HB 1941 which allows the Attorney General to take action for price gouging at these facilities. However, we are not aware of any enforcement actions that have been taken by the Health & Human Services Commission (HHSC) or the Attorney General though violations of both laws are widespread.

Consumers are now faced with the difficult task of unearthing the truth about costs and insurance coverage when seeking out COVID-19 testing. In Austin, a person looking for COVID-19 testing could receive an actual free test provided by Austin Public Health Department or a test from a nearby freestanding ER resulting in thousands billed to the patient’s insurance and potential surprise bills. Legislative action is necessary in order to prevent further consumer harm.

Recommendations:

- Ensure enforcement of HB 2041 by HHSC and HB 1941 by the Attorney General's office.
- Prohibit facility fees for drive thru testing.
- Require transparent pricing of the full cost of a COVID-19 test including all lab fees, physician fees, and any other fees associated with the test.
- Prohibit surprise bills for COVID-19 testing.
- Require facilities to seek approval from patients before administering additional tests on a patient's swab/specimen when only a COVID-19 test was requested.
- Ensure that it is a violation enforceable by the Texas Medical Board and HHSC to conduct and bill for unauthorized tests on a patient.

Sincerely,



Blake Hutson

AARP Texas

1905 Aldrich St. Suite 210

Austin, TX 78723

512-636-7213